

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Investigation on the Commission's Own Motion into the Operations and Practices of Pacific Gas and Electric Company to Determine Violations of Public Utilities Code Section 451, General Order 112, and Other Applicable Standards, Laws, Rules and Regulations in Connection with the San Bruno Explosion and Fire on September 9, 2010.

I.12-01-007  
(Filed January 12, 2012)

**RESPONSE OF THE UTILITY REFORM NETWORK TO  
PACIFIC GAS AND ELECTRIC COMPANY'S MOTION REGARDING  
THE CITATION OF MATERIALS OUTSIDE THE RECORD  
OF THE PROCEEDING**

The Utility Reform Network ("TURN") hereby submits this response to the April 1, 2013 Motion of Pacific Gas and Electric Company ("PG&E") Regarding the Citation of Materials Outside the Record of this Proceeding. In the Motion, PG&E contends that, in light of ALJ Wetzell's March 27, 2013 e-mail ruling regarding PG&E's earlier motion for official notice, ALJ Wetzell should order TURN to remove two references from its opening brief in this case.<sup>1</sup> PG&E's motion should be denied with respect to both references.

First, PG&E seeks to have stricken from page 11 of TURN's brief a citation to PG&E witness Harrison's written testimony in I.11-02-016. As the Commission will recall, Mr.

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<sup>1</sup> The Motion also seeks an order directing the CPUC's Division of Ratepayer Advocates to remove four references from its opening brief.

Harrison was a witness in both this case and I.11-02-016, and the cross examination based on his written testimony in both cases is in the joint record for the two proceedings. In this respect, Mr. Harrison, like several other PG&E witnesses (such as Mr. Zurcher and Ms. Keas) became a joint witness in both cases. TURN is frankly surprised that PG&E takes the position that only the cross examination of joint witnesses, and not the testimony on which the cross-examination questions were based, is part of the joint record. It would seem to follow without question that, in the interest of context and completeness of the record, the written testimony that was subject to the cross-examination should also be part of the joint record. Indeed, when CPSD's attorney sought to confirm that joint witness Keas' *written* testimony would also be considered joint testimony, ALJ Yip-Kikugawa agreed without hesitation or qualification.<sup>2</sup> Whether or not it was necessary for this to be confirmed, it makes no sense to have one rule with respect to Ms. Keas and a different rule with respect to the other joint witnesses. In the interest of forestalling further litigation on this matter, TURN respectfully requests that, consistent with ALJ Yip-Kikugawa's statement, the ruling on PG&E's motion make clear that each joint witness's written testimony is deemed to be part of the record of both cases.

Second, PG&E objects to a citation on page 6, footnote 11, of TURN's brief that supports the fact that, in the pipeline safety rulemaking (R.11-02-019), PG&E estimated that costs of its Phase 2 Pipeline Safety Enhancement Plan ("PSEP") could be as high as \$9 billion. PG&E admits that it does not dispute that it gave this cost estimate,<sup>3</sup> which alone should defeat PG&E's request. Such undisputed facts are exactly the type of information that ALJ Wetzell's

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<sup>2</sup> Tr. Jt. Vol. 5, pp. 623-625. On another hearing day, TURN's attorney sought, and obtained, clarification that no party objected to deeming the cross-examination *and written* testimony of joint witnesses Keas and Zurcher to be part of the record in both cases. Tr. (I.12-01-007), vol. 6, pp. 527-529.

<sup>3</sup> Motion, p. 4 (acknowledging that PG&E would not dispute its own cost estimate).

ruling states are appropriate for official notice. It appears that PG&E's gripe is that TURN cited to its own reply brief in R.11-02-019, rather than the original PG&E source document. If that is PG&E's concern, then TURN hereby makes clear for the record that the original source document was PG&E's Data Request Response DRA\_022-6 in R.11-02-019.<sup>4</sup> If the Commission deems it necessary, TURN will re-file its opening brief to add the citation to this data request response.

For these reasons, PG&E's motion should be denied with respect to the two TURN citations about which PG&E complains.

Dated: April 5, 2013

Respectfully submitted,

THOMAS J. LONG  
Attorney for THE UTILITY REFORM NETWORK

By: \_\_\_\_\_ /s/ \_\_\_\_\_  
Thomas J. Long  
Legal Director

THE UTILITY REFORM NETWORK  
115 Sansome Street, Suite 900  
San Francisco, CA 94104  
Phone: (415) 929-8876  
Fax: (415) 929-1132  
Email: [tlong@turn.org](mailto:tlong@turn.org)

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<sup>4</sup> TURN's Reply Brief in R.11-02-019 cited to TURN's testimony (Ex. 121, p. 8), which cited to this data request response.